UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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SHERRON KIRKWOOD, 06B3331,

        Petitioner,

    -v-   10-CV-0118HBS
                                          ORDER

ANDREW CUOMO, DAVID UNGER,

        Respondent.

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Before the Court is what the Court assumes is <u>pro</u> <u>se</u> petitioner's amended habeas corpus petition (Docket No. 11). It is not clear why petitioner has filed the amended petition, because it appears that plaintiff is still awaiting final decision on, at least, an appeal to the Appellate Division, Fourth Judicial Department. Petitioner was previously granted a stay of his petition in order to permit him to exhaust his remedies regarding certain unexhausted claims in state court -- specifically the claims for which he has not obtained a final decision, such as the appeal to the Appellate Division (Docket # 8).

The petition recently filed does not indicate that the appeal on which petitioner was awaiting final decision in the Appellate Division, Fourth Judicial Department has been decided.[1] Petitioner is directed to continue of his efforts to exhaust his unexhausted

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[1]In addition, petitioner indicates that he has something pending in the Court of Appeal for the Second Circuit. However, the U. S. Party/ Case Index does not reflect any action of petitioner's currently pending in the Second Circuit.

claims, including awaiting decision on the appeal he has pending, and return to the district court within 30 days of the completion of the effort to exhaust. If petitioner has received the final decision on his appeal that was pending before the Appellate Division, he may provide the Court with a copy of that decision and request to lift the current stay. Otherwise, petitioner must finish his efforts to exhaust his grounds and return to the district court within 30 days of the completion of the effort to exhaust. The Motion for Extension (Docket # 10) is denied as moot.

SO ORDERED.

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_____S/ MICHAEL A. TELESCA_____
MICHAEL A. TELESCA
United States District Judge

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Dated: February 18, 2010
           Rochester, New York